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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/509,093

09/28/2004

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NET-5865

9917

25962 7590 05/05/2009
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EXAMINER

JAKOVAC, RYAN J

ART UNIT

PAPER NUMBER

2445

MAIL DATE

DELIVERY MODE

05/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/509,093	Applicant(s) JOHANSSON ET AL.	
	Examiner RYAN J. JAKOVAC	Art Unit 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-42 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-42 and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/07/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 23-42 and 44 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 23-42, and 44, have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 1 is rejected under 35 U.S.C. 101; these claims cites a method but fails to (1) positively recite the statutory class to which they are tied to, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. The method is directed toward a resource manager, however, this element is interpreted as being embodied in software or a program per se and thus do not belong to any statutory class.

5. Claim 34 is rejected under 35 U.S.C. 101. Claim 34 is directed toward a resource manager. This element is considered to be software or a program per se, which is not one of the categories of statutory subject matter.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 23-26, 30-37, 41-42, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by “Issues of Reserving Resources in Advance” (hereinafter IRA).

Regarding claim 23, 32-34, IRA teaches method for reserving network resources within an IP network, wherein the resources are reserved by a resource manager for an application or a group of applications within a time interval defined by a start-time and a stop-time (IRA, pg. 3-4, client issues a request for resources and specifies points in time that define the beginning and duration of the reservation.), the method comprising:

guaranteeing said resources between said start-time and said stop-time, said guaranteeing being performed in advance of when said resources are allocated such that said start-time is later than a current time (IRA, pg. 9, resources are guaranteed between the start and stop time of a resource request by comparing the requested capacities in the time period given by the request to the available resources. See also, pg. 3.); and

keeping said resources for the application after said stop-time has expired if said application still needs resources (IRA, pg. 5, reservations are extended after a stop time using “demand” functions. Pg. 7 discloses the ability to extend reservations after the previously scheduled duration.), wherein the resource manager is keeping a list of active reservations that have expired after said stop-time (IRA pg. 8-9, time parameters relating to scheduled reservations and reservation requests are stored in the reservation database. The resource manager uses this information to check requested capacities in a certain time period against the

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time period given by the request. Extending a reservation is disclosed as described above. The resource manager check against the reservation database to secure an extension of a reservation, as disclosed on pg. 7.).

Regarding claims 24, 35, IRA teaches the method according to claim 23, wherein all resource reservations are utilizing a common pool of resources (IRA, pg. 3, resource manager provides functionality for the active resources. See also fig. 1, capacity test. Pg. 3 also discloses that the resource management is applied to all resources on the transmission and processing path (i.e. common pool of resources).).

Regarding claims 25, 36, IRA teaches the method according to claim 23, wherein individual start-time and stop-time are set for each application by an application client (IRA, pg. 3-4, client issues request defining start and stop time.).

Regarding claims 26, 37, IRA teaches the method according to claim 23, wherein individual start-time and stop-time are set for each application by the resource manager (IRA pg. 3-5, the resource manager grants a scheduled time for the requestor. See also fig. 2.).

Regarding claims 30, 41, IRA teaches the method according to claim 23, wherein charging of said resources is based on the amount of guaranteed resources (IRA pg. 8-9, The resource manager checks requested capacities in a certain time period against currently scheduled reservations (i.e. indicating the amount of guaranteed resources).).

Regarding claims 31, 42, IRA teaches the method according to claim 23, wherein said resources are related to the bandwidth (IRA, pg. 3, QoS requirements include throughput and delay.).

Regarding claim 44, IRA teaches the resource manager according to claim 34, wherein said start-time comprises a time value, the time value greater than a current time. is set to a time in the future (IRA, pg. 3, 9, reservations comprising time values are scheduled in advance.).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 27-28, and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over IRA.

Regarding claims 27, 38, IRA teaches the method according to claim 23. IRA does not expressly wherein said start-time is set to the current time. However, reservation requests are made which include a start-time and a duration, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a start time set to a current time since this is

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an obvious variation of requested start times and would be used for instance to reserve a resource for immediate use.

Regarding claims 28, 39, IRA teaches the method according to claim 23, IRA does not expressly disclose wherein said stop-time is set to the current time. However, IRA discloses that the shorter durations for reservations may be induces and in the case where the duration is shorter than expected, resources are likely to be made available for immediate use. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine wherein said stop-time is set to the current time with the method of IRA in order to make resources available for immediate use (IRA, pgs. 6-7.).

10. Claims 29 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over IRA in view of “RFC 2131 - Dynamic Host Configuration Protocol” (hereinafter DHCP).

Regarding claims 29, 40, IRA teaches the method according to claim 23. IRA does not expressly disclose wherein said stop-time is set to infinity. However, DHCP discloses wherein said stop-time is set to infinity (DHCP, Ch. 3.3, 1st paragraph, Client lease times set to infinity.).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine wherein said stop-time is set to infinity as taught by DHCP with the method of IRA in order to permanently reserve resources for a client (DHCP, section 2.2, 3.3.).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RJ/
/Larry D Donaghue/
Primary Examiner, Art Unit 2454